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To: County and District Superintendents
County and District Chief Business Officials
Charter School Administrators

From: Janet Sterling, Director
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Subject: Special Education Maintenance of Effort Requirement

In light of the enormous state deficits and necessary budget reductions, circumstances that we have taken for granted in previous years are now in question. Specifically, concerns have been raised by the federal government and the state legislature about California's compliance with the federal Individuals with Disabilities Education Act (IDEA) maintenance of effort (MOE) requirements.

The federal MOE requirements have been in place since 1997. However, in previous years, state and local budgets for special education services increased steadily, and it was easy to demonstrate that California's local education agencies (LEAs) maintained their level of expenditures for special education services, (i.e., spent more state and local dollars on special education programs each year). Over the last 6 months, the Special Education Division has received a number of calls regarding cuts in local funding for Special Education. It is incumbent upon CDE to be able to ensure compliance with federal MOE requirements. After consultation with Special Education Local Planning Areas (SELPA's), county offices of education, school districts, and charter schools, CDE developed a process to monitor local MOE requirements, to establish eligibility for IDEA funds.

This letter describes the federal MOE requirements and explains how your financial data can demonstrate compliance. It also describes the reports used to collect the special education expenditures to compare the current year's budget with the prior year's expenditures to determine if the MOE has been met.

What are the MOE Requirements?

MOE requirements are found in Part B of IDEA (20 USC 1413 (a)(2)(A)) and implementing regulations (34 CFR 300.230-300.232). Briefly, the MOE requires that Part B IDEA funds:

- Shall be used only to pay the excess costs of providing special education and related services to children with disabilities,
- Shall be used to supplement state, local and other federal funds and not to supplant such funds, and
- Shall not be used, except in specified cases, to reduce the level of state and local special education expenditures below that of the prior year.

It is the state's responsibility to determine the eligibility of an LEA for an IDEA award by comparing the amount of its budgeted state and local special education expenditures to the actual expenditures of the prior year. If the LEA does not meet the MOE requirement, it will not be eligible for federal special education funding. At the end of the year, it is also the responsibility of the state to compare the actual special education expenditures for that year with the actual expenditures of the prior year. If the LEA does not meet this second MOE requirement, it will be billed for the repayment of federal funds equal to the amount by which it reduced state and local spending.

Who is the responsible entity?

Since special education allocations are made by the California Department of Education (CDE) pursuant to the plans submitted by SELPAs, the MOE calculations will be made at that level. The expenditure data of the participating LEAs will be consolidated to determine if the SELPA as a whole has met the MOE requirements. As long as the SELPA passes the MOE test, failure by an individual LEA within that SELPA to meet the MOE test by itself will not result in sanctions. On the other hand, if a SELPA does not pass the budget-to-actual test, none of its participating members will be eligible to receive Part B funding. With respect to the actual-to-actual test, the SELPA will be billed for the amount the SELPA failed to spend from state and local funds to maintain its level of effort. How the penalty is applied to the districts within each SELPA for the budget-to-actual and the actual-to-actual tests will be up to each SELPA.

How do the report calculations work?

We are developing reports that import data from the standardized account code structure (SACS) financial software needed to perform the MOE tests. First, each participating LEA will download its special education unaudited actual expenditure data for the first year (2002-03) in one report and its most recent revised budget for the next year (2003-04) into a second report. The reports will list the special education expenditures in total by goal and object code, then subtract out federal expenditures to arrive at the state and local expenditures. The two reports will be forwarded to the LEA's SELPA administrative unit (AU) for consolidation with the SELPA AU's own expenditures. The SELPA AU will then combine the figures to determine the

prior year unaudited actuals and the current year budget for the SELPA as a whole. The results are summarized on a final report, which checks MOE in three tests:

- The first tests whether the SELPA's state and local special education budget is at least equal to that which was spent in the prior year, either in total or on a per-capita basis.
- If the first test fails, the SELPA can treat up to 20% of its increase in federal Part B IDEA funds as local funds, which may result in meeting the MOE requirement.
- If the second test still shows a reduction in expenditures, the SELPA will identify and calculate federally allowed exceptions, such as:
 - The voluntary departure or departure for just cause of special education or related services personnel who are replaced by qualified, lower salaried staff;
 - A decrease in the enrollment of children with disabilities;
 - The SELPA no longer has the obligation to provide one or more exceptionally costly special education programs to student(s) because they:
 - Have left the jurisdiction of the SELPA;
 - Have reached the age at which the SELPA is no longer required to provide free appropriate public education (FAPE) to the student(s);
 - No longer need the program of special education.
 - The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of facilities.

This summary sheet and the SELPA consolidated expenditure and budget reports are submitted to our Special Education Division (SED) for evaluation, in preparation for apportioning the federal special education grants.

What is the timing of these reports?

The initial test for the MOE calculation is the comparison of the 2003-04 most current budget with the 2002-03 unaudited actuals. The two reports for use by LEAs are being added to the 2002-03 unaudited actual SACS software for this purpose. Both reports should be downloaded and submitted to the SELPA on or before September 15, 2003, for consolidation before they are due to the SED on October 15, 2003. The SED will then use these reports to determine eligibility of the SELPA for federal grants for the fall 2003 apportionment.

The second test will be completed after the end of the 2003-04 year, when the 2003-04 unaudited actual data will be compared to that of the prior year. It is anticipated that this test will be performed when we receive the unaudited actuals. It will not be necessary for the SELPA to do the consolidation; rather, we will compile the data from the LEAs' unaudited actual submissions. SELPAs will be notified if reports indicate that they have failed the second MOE test, and additional data will be requested to check on federal exceptions to the basic calculation.

Please note: The process for collecting and reviewing MOE data for future years may be revised, once we have had an opportunity to assess what is workable in this first year of checking MOE.

What about charter schools?

Charter schools are not exempt from the federal special education MOE requirements. Charter schools must submit their special education state and local expenditure totals to their SELPA for inclusion in the SELPA report:

- If the charter's data are included in the General Fund or the Charter Schools Special Revenue Fund of its sponsoring district, the charter's data will be automatically included in the district's submission.
- If the charter reports separately from the district but is considered a school of the district for SELPA purposes, the charter must submit its special education data to the sponsoring district to be reported to the SELPA.
- If the charter school is an LEA for special education purposes and is an individual member of a SELPA, it must make arrangements with the SELPA for data submission.
- If a sponsoring district is including its charter data in its financial reports but the charter is a member of another SELPA, then the district must omit the charter's special education expenditures from the district's report. The charter's data must be reported to the SELPA of which the charter is a member.

Charter schools that do not use SACS may manually enter summarized data on the report forms; expenditures by goal are not required on the reports.

Accounting issues

The accounting for special education transactions can be very complex, and it is important that double counting or incorrect coding does not cause a SELPA to fail its MOE calculations. Therefore, we urge all LEAs and the SELPA AUs to look carefully at the 2002-03 unaudited actual data before submitting them to CDE. The most common problem is the coding of pass-through grants or contracts for services, which, if not done correctly, can result in both parties reporting expenditures. Accurate reporting at the SELPA level will result only if all parties are coding their transactions in compatible ways. Good communication between a SELPA AU and its participating districts is essential.

If a county reports financial data for multiple SELPAs, it will have to split out the transactions of each SELPA individually. Currently, there is not a standardized way to report each of the county's SELPAs separately.

To assist you, we have attached some examples of typical accounting entries that explain the accounting for transactions between LEAs within a SELPA, and examples of coding errors that might affect the MOE calculations.

Conclusion

Issues on MOE continue to be discussed with SELPA administrators, LEA business offices, and charter school representatives. Some refinements may be made on the method for calculating MOE and determining exceptions in spending patterns, based on our experience in this transition year. We anticipate that discussions will continue, and we welcome input from all sources to assist us in developing a practical and effective compliance tool.

We expect the version of the SACS financial software containing the MOE reports to be posted within the next week on our Web site at: <www.cde.ca.gov>. If you have questions or concerns about special education requirements and MOE regulations, please feel free to contact Chris Drouin of the Special Education Division at cdrouin@cde.ca.gov or (916) 327-3698. If you have questions or concerns about SACS accounting or the software reports, you may contact Hermie Briones of the School Fiscal Services Division at hbriones@cde.ca.gov or (916) 327-0858. This letter, along with the attached accounting guidance, is posted on our Web site at: <www.cde.ca.gov>.

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Attachment

Special Education Accounting Issues For MOE

Transactions Between LEAs

I. Pass-through of Apportionment (Resource 6500 Special Ed)

Revenue recognized by AU, expenditures by sub-recipient.

Original Recipient	Sub-Recipient
01-6500-0-5001-0000- 8311	
Receive revenue	
01-6500-0-5001-9200-7221, 2, 3	01-6500-0-5001-0000-8791, 2, 3
Transfer out apportionment	Transfer in of apportionment
	01-6500-0- 5XXX-XXXX-XXXX
	Expenditures for program

II. Pass-through of All Other Resources (Federal, State, or Local)

Revenue and expenditures are those of sub-recipient.

Original Recipient	Sub-Recipient
01-3310-0-5001-0000-8287	
Receipt of federal IDEA money to be passed	
01-3310-0-5001-9200-7211, 2, 3	01-3310-0-5001-0000- 8181
Pass-through of resource	Receipt of resource
	01-3310-0- 5XXX-XXXX-XXXX
	Expenditure for program
01-7810-0-5001-0000-8587	
Receipt of state money to be passed	
01-7810-0-5001-9200-7211, 2, 3	01-7810-0-5001-0000- 8590
Pass-through of resource	Receipt of resource
	01-7810-0- 5XXX-XXXX-XXXX
	Expenditure for program
01-9010-0-5001-0000-8697	
Receipt of local money to be passed	
01-9010-0-5001-9200-7221, 2, 3	01-9010-0-5001-0000- 8699
Pass-through of resource	Receipt of resource
	01-9010-0- 5XXX-XXXX-XXXX
	Expenditure for program

III. Contract for Services

Revenue and expenditures are recognized by original recipient.

Original Recipient (claims ada)	Sub-Recipient
01-6500-0-5001-0000- 8311	
Receipt of resource revenue	
01-6500-0- 5750-1110-5800	01-9010-0-0000-0000-8677 (8285 federal)
Pay for services provided to recipient	Payment for providing services
	01-9010-0-7110-XXXX-XXXX
	Expenditure to provide the service

IV. Charging/Paying Excess Costs

Expenditures claimed by service provider. Excess payment cost is a double count of expenditures within the SELPA.

Service Provider (claims ada)	LEA paying tuition to provider
01-6500-0- 5750-1110-1100 (etc)	
LEA provides instruction to severely disabled students and claims ada for these students.	
01-6500-0- 5001-0000-8710	01-6500-0-5750-9200-7142
LEA providing instruction receives tuition from LEA of residence	LEA does not claim ada but has agreed to pay excess costs to primary LEA for excess costs of services provided
	01-6500-0-5XXX-XXXX-5800
	<i>Proposed that we change object of expenditures for tuition payments to LEA outside SELPA</i>
	<i>Other options:</i>

Excess costs for special education transportation provided by one entity for another:

Service Provider	LEA paying excess cost to provider
01-7240-0- 5750-3600-2200 (etc)	
LEA provides SH/OH transportation for severely disabled students and claims “pupils transported” for these students.	
01-7240-0- 5001-0000-8710	01-1100-0-5750-9200-7142
LEA providing instruction receives tuition from LEA of residence	LEA uses Lottery money to pay agreed excess cost amounts to the provider of the transportation services. They do not claim transportation costs on their TRAN because these are not their students.
	01-1100-0-5XXX-XXXX-5800
	<i>Proposed that we change object of expenditures for tuition payments to LEA outside SELPA</i>
	<i>Other options:</i>

Other Accounting Issues for MOE

V. Use of Goal field

Workability Program coding error
01-3405-0-3800-3110-1200 Workability I 01-3410-0-3800-2100-1300 Dept of Rehabilitation, Workability II
This entry is not correct. If a LEA uses a Vocational Education goal, the costs will not be included in special education expenditures. These students are special education students, not Vocational Education students, so a special ed goal should be used.
Vocational Education coding error
01-3505-0-5770-3110-1200 Carl Perkins Voc Ed grant
This entry is not correct. The vocational education grants and programs are for vocational education students. It may be that a class contains a student with an IEP, but the teacher funded with this money is teaching primarily vocational education students and this salary should not be coded as a special education cost but as a vocational education cost. The teacher and the supplies are vocational education costs.
Juvenile Court/County Community School
01-6500-0-5770-1190-1100 Resource specialist works with one student in Juvenile Court School classroom 01-2400-0-3600-1000-2100 TA hired to work in Juvenile Court classroom 01-2400-0-3500-1000-1100 teacher hired for County Community School
These lines are appropriate accounting for the Juvenile Court or County Community School programs. It is possible that a student served in a juvenile court school has an IEP. However, expenditures of Juvenile Court/Community Day Schools apportionment should be coded to the goal (population) of Juvenile Court/Community Day School ada. The JUV Report will not capture expenditures coded to Goal 5XXX. If there are supplemental special education costs for the student in a JUV setting, those supplemental costs could be spent out of special education funding and be directly charged to a special education goal. However, these are special education costs and not Juvenile Court School costs, and will not appear in the JUV report, which measures how state JUV apportionment has been spent.

VI. Allocation of special education costs

Cost allocated per PCR
01-0000-0-0000-3120-2200 psychologist 01-0000-0-0000-2700-1300 principal 01-0000-0-0000-8100-2200 custodian 01-7230-0-0000-3600-5800 Home to School Transportation costs
Some LEAs do not initially code support expenditures to a goal, either in the budget or in the actual transactions.
01-0000-0-5001-3120-PCRA by FTE 01-0000-0-5001-2700-PCRA by FTE 01-0000-0-5001-8100-PCRA by CU 01-7230-0-5001-3600-PCRA by PT
Special education costs are allocated to the special education goal by the PCR per allocation factors at the time of the unaudited actual reporting. These direct support costs are not captured in the comparison of unaudited actuals to next year's budget because the budget does not include PCR allocations. However, the subsequent report, comparing two years of unaudited actual data, will include the allocated costs.